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PRE-APPEAL BRIEF REQUEST FOR REVIEW

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16615

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on DECEMBER 13, 2007Signature William J. ClemensTyped or printed name WILLIAM J. CLEMENS

Application Number

10/717,805

Filed

11/20/2003

First Named Inventor

PARRINI

Art Unit

3654

Examiner

S. KRUEGER

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

 applicant/inventor. assignee of record of the entire interest.
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96) attorney or agent of record.Registration number 26,855William J. Clemens

Signature

WILLIAM J. CLEMENS

Typed or printed name

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Telephone number

 attorney or agent acting under 37 CFR 1.34.

Registration number if acting under 37 CFR 1.34 _____

DECEMBER 13, 2007

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required.
Submit multiple forms if more than one signature is required; see below.

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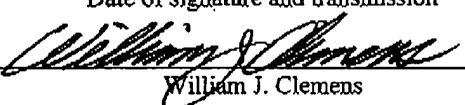
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By


William J. Clemens

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

| | | |
|---------------------------------|---|------------------------|
| In re Application of: PARRINI |) | Group Art Unit: 3654 |
| |) | |
| Serial No.: 10/717,805 |) | Examiner: S. Kruer |
| |) | |
| Filed: November 20, 2003 |) | Attorney Docket: 16615 |
| |) | |
| For: REINFORCED SYNTHETIC CABLE |) | Confirmation No.: 8662 |
| <u>FOR ELEVATORS</u> |) | |

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Honorable Sir:

Review of the above-identified application is requested for the following reasons:

1. In the Office Action dated September 13, 2007, the Examiner rejected Claims 5, 10 and 15 under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement because the claims contain subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The Examiner calls into question the arrangement and distribution of a reinforcing material in a base material, wherein said reinforcing material is in the form of at least one of spheres, grains, capsules, discs and plates, whereby the modulus of elasticity of a fiber containing said

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reinforcing materials is increased in a longitudinal direction of said fiber. According to the Examiner, the disclosure of the instant invention reviews a random as well as parallel distribution of reinforcing material, wherein the modifiers random and parallel refer to the orientation of the reinforcing material. The Examiner stated that, as addressed in the prior art of reference of the previous office actions and as newly cited within this office action, the use of randomly orientated (psuedoisotropic) reinforcing material provides the least strength, in comparison to unidirectional (parallel) and bidirectional orientation. Consequently, according to the Examiner, a reinforcing material comprising either spheres, grains, capsules, discs or plates, wherein said material has a higher stiffness than the base material, would result in localized concentration of stresses that would compromise the longitudinal elasticity of the base material, rendering the base material less resilient to loading.

2. Base Claims 1, 7 and 11 each recite that the reinforcing material increases a modulus of elasticity of the strands in a longitudinal direction of the fibers. While random distribution and parallel distribution of the reinforcing material may result in different values, both create an increase in the modulus of elasticity of the strands in a longitudinal direction of the fibers as recited in the claims. The rejection under 35 U.S.C. 112, first paragraph is improper.

3. The Examiner rejected Claims 8 and 14 under 35 U.S.C. 112, second paragraph, because they recite the limitation "... said second phase reinforcing material increases a modulus of elasticity of said fibers in a radial direction of said fibers", whereby the respective independent claim from which the aforementioned claims depend recite "... increases modulus of elasticity of the strands in a longitudinal direction of said fibers..." According to the Examiner, it is unclear whether the depending limitation is to replace the independent limitation or it is to be in addition to the independent limitation, e.g. "... said second phase reinforcing material increases a modulus of elasticity of said fibers in both a radial direction and a longitudinal direction of said fibers". For purpose of prosecution, the Examiner applied the former (e.g. radial direction only).

4. Applicant states in the specification that the modulus of elasticity of the entire fiber in the longitudinal direction and/or the transverse direction is increased. (Page 7, Lines 22-24) There is no language in Claims 8 and 14 that would indicate that Applicant meant to replace

the longitudinal direction limitation recited in Claims 7 and 11 with the radial direction limitation.

5. The Examiner rejected Claims 1-7, 9-13 and 15 under 35 U.S.C. 103(a) as being unpatentable over De Angelis (5,566,786) in view of Olesen et al (4,956,039). It is the Examiner's opinion that it would have been obvious to one of ordinary skill in the art to modify the base material of De Angelis with the teaching of Olesen in order to gain the commercial and structural (performance) features.

6. The Examiner cited De Angelis in view of Olesen as the basis of rejection in the Office Actions dated November 8, 2005 and March 23, 2006. Applicant's responses are found on Page 9 of the Amendment dated February 6, 2006 and Pages 7-9 of the Amendment dated June 21, 2006. Applicant apparently overcame the rejections because the Examiner abandoned Olesen as a reference in the rejections set forth in the Office Actions dated January 5, 2007 and April 20, 2007. All that Olesen teaches is the placing the short reinforcement elements in a sleeve of a cable. One of ordinary skill in the art would apply the teaching of Olsen to the elevator cables of De Angelis by introducing the reinforcements into the cable sheathing 2, but not into the load-bearing fibers 5 of the cable. There is no teaching in either De Angelis or Olesen of a support device with load-bearing fibers consisting of at least two phases.

7. The Examiner rejected Claims 8 and 14 under 35 U.S.C. 103(a) as being unpatentable over De Angelis in view of LaNieve et al (5,437,899). Applicant's responses are found on Page 6 of the Amendment dated April 5, 2007 and Pages 8-9 of the Amendment dated August 18, 2007. According to the Examiner, LaNieve teaches "further that such addition of particulate matter will enhance the flexural strength (modulus of elasticity) of the fiber."

8. Applicant believes that the Examiner listed the wrong patent number for LaNieve. US 6,162,538 to LaNieve states, at Col. 7, Lines 11-16, that the tensile properties of the fiber (tenacity and modulus) decrease. Thus, the combination suggested by the Examiner does not increase the modulus of elasticity in the longitudinal direction of the fibers as recited in Applicant's amended claims.

Respectfully submitted,



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